

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

CARLOS A. GARCIA PEREZ, et al

*

Plaintiff

*

CIVIL NO. 97-1703 (DRD)

v.

*

ALVARO SANTAELLA, et al

*

Defendants-Third Party Plaintiffs

*

v.

*

DR MARIA T CASADO GARCIA, et al *

Third Party Defendants

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ANSWER TO AMENDED COMPLAINT

To the Honorable Court:

COMES NOW Dr. Iván Terón Méndez, through his undersigned attorneys, and respectfully states and prays:

1. The allegations of paragraphs 1, 2 11, 13, 16, 17, 20, 23, 24, 25, 27, 40, 41, 54 and 55 of the Amended Complaint are admitted.

2. The allegations of paragraphs 18, 24, 28, 29, 30, 31, 32, 33, 38, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52 and 53 of the Amended Complaint are denied.

3. The allegations of paragraphs 3, 4, 5, 6, 8, 9, 10, 12, 14, 15, 21, 22, 26, 34, 35, 36, 37 and 48 of the Amended Complaint are denied for lack of information.

4. From the allegations of paragraph 7 of the Amended Complaint, Dr. Iván Terón Méndez admits that he is a medical doctor and a resident of Puerto Rico. The remaining allegations of paragraph 7 of the Amended Complaint are denied.

5. The allegations of paragraphs 19 and 39 of the Amended Complaint do not require a response from defendant Dr. Iván Terón Méndez.

AFFIRMATIVE DEFENSES

1. The Amended Complaint as drafted does not provide for a cause of action against Dr. Iván Terón Méndez.

2. The treatment rendered by Dr. Iván Terón Méndez was one of quality and in compliance with the best medical standards.

3. The damages suffered by plaintiffs, if any, could have been caused by the negligence of third persons for whom Dr. Iván Terón is not liable.

4. The Amended Complaint is totally or partially time barred with respect to Dr. Iván Terón Méndez.

5. Under Puerto Rico substantive law, a presumption exists to the effect that Dr. Iván Terón Méndez's treatment to the babies was rendered in compliance with the best medical standards.

6. Plaintiffs lack sufficient evidence to rebutt the presumption created by law in favor of Dr. Iván Terón Méndez.

7. Plaintiffs have acted with temerity in the filing of the Amended Complaint against Dr. Iván Terón Méndez.

8. Dr. Iván Terón Méndez reserves the right to present any special defenses that may result as a consequence of the use of the discovery procedures in this case.

WHEREFORE, it is prayed from this Honorable Court that it dismiss the Amended Complaint filed by Plaintiffs against Dr. Iván Terón Méndez with the imposition of costs and attorney's fees.

CERTIFICATE OF SERVICE: I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to **Andrés Guillermand Noble, Esq.; Angel R. Del Corral, Esq.; Igor Domínguez, Esq.; Pedro Toledo González, Esq.; Roberto Ruiz Comas, Esq.; Marta Elisa González, Esq.; Pedro J. Córdova, Esq.; Alexis Mattei, Esq.; Doris Quiñones Tridas, Esq.; Jeannette López de Victoria, Esq.; Gilda del C. Cruz Martínó, Esq.**

Ponce, Puerto Rico, this 18 day of November, 2004.

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By: *s/ José Héctor Vivas*

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